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*Attorney for Defendant,*  
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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

**TIMOTHY TOTH and GARY  
HALL, INDIVIDUALLY AND  
ON BEHALF OF ALL OTHERS  
SIMILARLY SITUATED,**

Plaintiff,

v.

**STELLAR RECOVERY, INC.,**

Defendant

**Case No.: 2:13-cv-01276-LDG-GWF**

**PARTIES' MOTION FOR  
RELIEF OF UNTIMELY  
FILING JOINT STATUS  
REPORT RE: DISCOVERY,  
PURSUANT TO SPECIAL  
ORDER 109**

Plaintiffs TIMOTHY TOTH and GARY HALL (jointly as "Plaintiffs") and Defendant STELLAR RECOVERY, INC. ("Defendant") jointly submit this motion seeking relief for the untimely filing of the joint status report re discovery due to a power outage causing the CM/ECF server to be down from February 21, 2014 to February 23, 2014:

**PARTIES' MOTION FOR RELIEF OF UNTIMELY FILING JOINT STATUS REPORT  
RE: DISCOVERY**

1. Plaintiffs and Defendant met and conferred regarding the joint status report on February 20, 2014 and February 21, 2014.
2. At approximately 5:30 p.m. PST, Plaintiffs attempted to lodge the agreed upon joint status report on the CM/ECF system.
3. Multiple counsel attempted to lodge the report over the next 6 hours, and again on February 22, 2014.
4. At approximately 6:45 p.m. PST on February 22, 2014, Plaintiffs were able to successfully lodge the joint status report (Dkt. No. 27).
5. The parties seek relief for any discipline that would result from this Court deeming its submission untimely, pursuant to Special Order 109, Section IX (“Technical Failures”).

Dated: February 24, 2014

Respectfully submitted,

**HAINES & KRIEGER**

By: /s/ David Krieger  
DAVID KRIEGER, ESQ.  
ATTORNEY FOR PLAINTIFF

**FOLEY & MANSFIELD**

By: /s/ Sean P. Flynn  
SEAN P. FLYNN, ESQ.  
ATTORNEY FOR DEFENDANT

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### **SIGNATURE CERTIFICATION**

Pursuant to Section 2(f)(4) of the Electronic Filing Administrative Policies and Procedures Manual, I hereby certify that the content of this document is acceptable to Sean P. Flynn, counsel for Defendant, and that I have obtained Mr. Flynn's authorization to affix his electronic signature to this document.

Dated: February 24, 2014

**HAINES & KRIEGER**

By: /s/ David Krieger  
DAVID KRIEGER, ESQ.  
ATTORNEY FOR PLAINTIFF

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

**TIMOTHY TOTH and GARY  
HALL, INDIVIDUALLY AND ON  
BEHALF OF ALL OTHERS  
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**STELLAR RECOVERY, INC.,**

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Case No.: 2:13-cv-01276-LDG-GWF

~~[PROPOSED]~~ ORDER GRANTING  
PARTIES' MOTION FOR RELIEF OF  
UNTIMELY FILING JOINT STATUS  
REPORT RE: DISCOVERY,  
PURSUANT TO SPECIAL ORDER  
109

Having read the jointly submitted papers submitted in support of the motion and having considered the arguments of counsel, the Court finds that justice requires that relief from untimely filing is granted.

Accordingly, IT IS ORDERED THAT:

I. The motion is GRANTED;

Dated: February 25, 2014



Honorable George Foley, Jr.  
U.S. District Magistrate Judge